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HOUSE BILL NO. 504

House Amendments in [] — February 7, 1994

A *BILL to amend and reenact §§ 38.2-4705 and 38.2-4706 of the Code of Virginia, relating to insurance; premium finance companies.*

Patron—Heilig

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:**1. That §§ 38.2-4705 and 38.2-4706 of the Code of Virginia are amended and reenacted as follows:**

§ 38.2-4705. Maximum interest rate and maximum service charge on premium finance agreement.

A. The Commission shall periodically investigate the economic conditions and other factors relating to and affecting the business of insurance premium finance companies. The Commission shall ascertain all pertinent facts necessary to determine what maximum interest rate and what maximum service charge shall be permitted. Upon the basis of those facts and subject to this chapter, the Commission shall determine and fix by regulation or order the maximum interest rate and maximum service charge that may be charged in advance upon the amount financed by any insurance premium finance company.

B. The Commission shall initially fix the maximum interest rate at one percent per month charged in advance upon the entire amount financed payable in installments, and shall initially fix the maximum service charge at fifteen dollars. Thereafter, the maximum interest rate and maximum service charge shall be determined by the Commission after giving due consideration to such factors as (i) prevailing market interest rates, (ii) other relevant cost indices, and (iii) the industry-wide experience of premium finance companies operating in this Commonwealth. Before redetermining the maximum interest rate or maximum service charge, the Commission shall give all licensees notice and opportunity to be heard and to introduce evidence with respect to the maximum interest rate or service charge.

C. Interest at the authorized rate may be charged from the effective date of the premium finance agreement or the inception date of the insurance contract for which the premiums are being financed, whichever is earlier, through the date when the final installment of the premium finance agreement is payable. The service charge received by an insurance premium finance company shall be fully earned upon its receipt and no portion of the service charge need be refunded upon cancellation or prepayment of the loan. Only one service charge shall be made for each premium finance agreement, [*except that an additional service charge not to exceed ten dollars may be charged for each additional premium added to an existing finance agreement,*] and no insurance agent or insurance premium finance company shall induce any person to enter into more than one premium finance agreement for the purpose of obtaining more than one service charge. [*Notwithstanding the foregoing, one additional charge not to exceed ten dollars may be charged if additional premiums are added to an existing finance agreement at the insured's request. Such additional charge may be applied only once during the term of any premium finance agreement.*] No part of any charges shall be paid to any insurance agent by an insurance premium finance company.

D. Notwithstanding the foregoing, the Commission by rule or order may exempt any premium finance agreement, any class of premium finance agreements or any market segment from any of the provisions of this section, if it finds their application unnecessary to achieve the purposes of this chapter.

§ 38.2-4706. Default charge; bad check charge.

A. If any installment under a premium finance agreement is not paid in full within seven days after it is due, Sundays and holidays included, the insurance premium finance company may charge and collect a default charge not to exceed five percent of the installment. The default charge shall be collected only once on any installment.

B. An insurance premium finance company may charge and collect a fee, not in excess of ~~fifteen~~ *twenty* dollars, for each check returned to the insurance premium finance company because the drawer had no account or insufficient funds in the payor bank.

ENGROSSED

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